

**OPINION**  
**51-35**

July 9, 1951 (OPINION)

COUNTIES

RE: Financing of New Courthouse

Your letter of June twenty-eighth re above has been received. In this letter you ask for an opinion from this office touching phases of this matter.

Section 11-1116 N.D.R.C. gives the county commissioners authority to build a courthouse, if the expenditure will not be more than the current year's revenue.

Section 11-1118 N.D.R.C. provides a procedure when the current year's revenue will not cover the cost. We presume that the question of the extraordinary outlay has been submitted to a vote of the people and that a favorable vote has been received. We presume also that a levy has been made for some years in the past and that there is a considerable sum now in the building fund authorized by the vote above referred to. This, we assume, is the money you refer to as being sufficient to commence the building. You speak of memorial fund levies. Does this mean that your county has determined to make the new courthouse a war memorial and that levies under the memorial law (chapter 11-32 1949 Supplement) have been made?

If these two sources of funds for the courthouse are provided, and the levies authorized are made and will be sufficient to pay the cost of the building, it is our opinion that the expenditure has been lawfully authorized and the funds provided. We do not believe, if these sources will provide sufficient funds to pay the cost of the building when completed, that it will be necessary to wait till these levies have been collected before the construction can be commenced.

It is our opinion that, if the contract for the building is so drawn that the contractor agrees to await final payment until these funds are collected, the provisions of section 21-0103 N.C.R.C. will not be violated by the making of such contract.

In the matter of issuing certificates of indebtedness against either of these levies, it is our opinion that as soon as either levy for the current year has been made and certified to the auditor, certificates of indebtedness may be issued under chapter 21-02 N.D.R.C. against such levy. That is, certificates may be issued only against each annual levy as it is made, not for the entire levy which is to extend over a number of years. This, as soon as the 9151 levy for these funds has been made, certificates may be issued in anticipation of the collection of such levy. The money collected from these specific levies is the only money that can be applied to the payment of these certificates, and the issuance of these certificates will not tie up in any degree any other levy made for the county. Of course, the certificates must be so worded as to be payable only from these levies. We enclose copies of two office

opinions covering the certificate matter.

ELMO T. CHRISTIANSON

Attorney General